

## NOTICE OF DECISION

FILE NO. **SDAB 2017-008**

APPLICATION No.: **2017-DP-01315**

DEVELOPMENT: **Home Business**

LAND USE DESIGNATION: **R1S – Single Small Lot Residential District**

LEGAL DESCRIPTION: **Lot 9, Block 6, Plan 002 1165**

CIVIC ADDRESS: **244 Warren Way, Fort McMurray, Alberta**

**IN THE MATTER OF AN APPEAL** filed with the Regional Municipality of Wood Buffalo Subdivision and Development Appeal Board (“the Board”) pursuant to Sections 685 and 686 of the *Municipal Government Act*, R.S.A 2000, c. M-26 (“the Municipal Government Act”), the Appeal Hearing was held on Thursday, August 31, 2017 in the Jubilee Centre, Council Chamber, 9909 Franklin Avenue, Fort McMurray, Alberta.

**BETWEEN:**

Darlene Pillar (“the Appellant”)

-and-

The Regional Municipality of Wood Buffalo (“the Municipality”)

**BEFORE:**

D. Secord, Chair  
A. Austin  
A. McKenzie  
R. Wells

**Administration:**

S. Soutter, Clerk for the Subdivision and Development Appeal Board

- [1] Following the introduction of the Board, the Chair confirmed with the parties in attendance that there were no objections to the constitution of the Board.

**PRELIMINARY MATTERS**

[2] No preliminary matters were raised.

**SUMMARY OF HEARING**

[3] This Appeal is related to the refusal of the Development Authority to grant a development permit for a home business license.

[4] The application was refused on the basis that the applicant is not able to meet the necessary parking requirements as required under Section 70 of the *Land Use Bylaw*.

[5] The Development Officer started the proceedings with a verbal presentation of her written report. The application for the home business was received on July 18, 2017. Upon review of the application, it was noted that the two stall garage for the principle dwelling does not meet the combined width of 5.6m (2.8m x 2 stalls). Additionally the third parking stall that is required for the home business does not meet the width of 2.8m. The proposed parking stalls are 2.7m in width.

[6] Due to Section 28 of the *Land Use Bylaw*, the variance is outside of the authority for the Development Officer to approve.

[7] The Development Authority recommends that the Subdivision and Development Appeal Board overturn the decision of the Development Officer and approve the development permit as there is a divergence of the less than 10cm for the parking stalls.

**Submission In Favor Of The Appeal**

[8] The Board heard the Appellant D. Pillar, who provided an overview of her written submission, stating that the parking spots are off a low traffic lane without volume or congestion. It was further indicated that she and her husband only own one vehicle. The Appellant added that she measured several parking stall sizes at various locations in the Fort McMurray, she stated that most of the stalls measured less than the 2.8m requirement, in addition to that all the stalls measured were in high traffic areas.

[9] In support of her appeal, the Appellant stated that the proposed business will be limited to two clients a day (not at the same time) and that the service she will be providing is performed within the residence, therefore there will be no noise, dust or fumes that would affect the neighbors.

[10] The Appellant made reference to the Municipalities Business and Economic Recovery Plan that is in place, noting that the refusal of this business license is not in keeping with the Municipality's goals of encouraging small business growth.

[11] In support of the appeal the board heard from Mr. Pillar, partner of the Appellant, who submitted materials in relation to parking dimensions for City of Calgary and different locations in the United States of America (Exhibit 5). Mr. Pillar reiterated his wife's comments that they only own one vehicle and that there would no noise impact to their neighbors.

Submission Opposed To The Appeal:

[12] No one came forward to speak in opposition to the appeal.

[13] Upon conclusion, the Chair asked the parties present, if they felt that the hearing was conducted in a fair manner. No issues were brought to the Board's attention.

**FINDINGS OF FACT**

[14] The Board makes the following findings of fact:

- a. The Property is zoned R1S – Single Small Lot Residential District;
- b. The Home Business is a discretionary use which is allowable in this district;
- c. The variance is outside of the authority for the Development Officer to approve.

**DECISION**

[15] **It is the decision of the Subdivision and Development Appeal Board to overturn the Decision of the Development officer and approve Development Permit 2017-DP-01315.**

**REASONS FOR THE DECISION**

[16] The Board's jurisdiction is found under Section 687(3)(c) of the Municipal Government Act, RSA 2000, c. M-26:

*687(3) In determining an appeal, the subdivision and development appeal board may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;*

- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,*

- (i) *the proposed development would not*
- (A) *unduly interfere with the amenities of the neighbourhood, or*
- (B) *materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,*
- and*
- (ii) *the proposed development conforms with the use prescribed for that land or building in the land use bylaw.*

[17] After weighing the evidence of the parties and in light of the recommendation of the Development Authority, the Board found it fair and reasonable to approve the application as the discrepancy is minimal and should not have any impact on the adjacent property owners.

[18] The relaxation of the parking standards will allow the subject property to have the sufficient parking provision on the property without having client's park on the street and cause undue congestion and interference with traffic.

### **EVIDENCE**

[19] The Board heard the submission of the parties but gave no weight to Parking Dimensions (Exhibit 5) that were submitted, as the Board felt that this was not applicable. The jurisdiction of the Board lies with the *Land Use Bylaw* of the Regional Municipality of Wood Buffalo. The Board also heard the Appellants statement in relation to Business and Economic Recovery Plan, but placed little weight on this during its deliberations as it felt this is not in line with the reason why the application was refused. The application was refused as the variance was outside of the authority of the Development Officer to approve.

[20] The Board encourages the Appellant to abide by the requirements of the Bylaw in relation to parking and to have the appropriate house number prominently displayed and easily read from the street.

[21] In making this decision, the Board considered the written and verbal evidence presented. The Board used its discretion and authority under Section 687 (3)(d) of the *Municipal Government Act* to vary the requirement of the Land Use Bylaw.

[22] It is so ordered.

[23] The decision of the Subdivision and Development Appeal Board is final and binding on all parties, subject only to appeal to the Court of Appeal under Section 688 of the *Municipal Government Act*, R.S.A 2000, c. M-26

Dated at the Regional Municipality of Wood Buffalo in the Province of Alberta, this 14th day  
of September 2017.

CHAIR: David Secord  
David Secord

**APPENDIX "A"****DOCUMENTS RECEIVED AND CONSIDERED BY THE SDAB:**

<b>EXHIBIT NO.</b>	<b>ITEM</b>	<b>DATE FILED</b>
1.	Notice of Appeal (6 pages)	2017-07-27
2.	Appellants Disclosure (7 pages)	2017-08-23
3.	Planners Report (9 pages)	2017-08-23
4.	Photographs (2 pages)	2017-08-31
5.	Parking Dimensions (18 pages)	2017-08-31

**APPENDIX "B"****REPRESENTATIONS****PERSON APPEARING****CAPACITY**

1.	W. Rourke	Development Officer, Planning and Development Regional Municipality of Wood Buffalo
2.	C. Booth	Supervisor, Development Control Regional Municipality of Wood Buffalo
3.	D. Pillar	Applicant - Subject Property Owner
4.	D. Pillar	Subject Property Owner